

****E-Filed 6/6/2011****

1 DAVID M. ARBOGAST

darbogast@law111.com

2 JEFFREY K. BERNIS

jberns@law111.com

3 **ARBOGAST & BERNIS LLP**

6303 Owensmouth Ave., 10th Floor

4 Woodland Hills, CA 91367-2263

Tel. 818.961.2000

5 Fax. 818.936.0232

6 LORI E. ANDRUS

lori@andrusanderson.com

7 JENNIE LEE ANDERSON

jennie@andrusanderson.com

8 **ANDRUS ANDERSON LLP**

155 Montgomery Street, Suite 900

9 San Francisco, CA 94104

Tel. 415.986.1400

10 Fax. 415.986.1474

11 [Additional Counsel Listed on Signature Block]

12 Attorneys for Plaintiff and Proposed Classes

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA**

15 **SAN JOSE DIVISION**

17 JAY RALSTON, individually and on behalf of
all others similarly situated,

18 Plaintiff,

19 v.

20 MORTGAGE INVESTORS GROUP, INC.;
21 MORTGAGE INVESTORS GROUP, a
general partnership; COUNTRYWIDE HOME
22 LOANS, INC.; and DOES 3-10,

23 Defendants.

Case No. 5:08-CV-00536-JF (PSGx)

**JOINT STIPULATION AND [PROPOSED]
ORDER RE: CASE DEADLINES
PENDING SETTLEMENT DISCUSSIONS**

Courtroom: 3 - 5th Floor

Judge: Hon. Jeremy Fogel

Magistrate: Hon. Paul Singh Grewal

JOINT STIPULATION AND ORDER RE: CASE DEADLINES PENDING SETTLEMENT DISCUSSIONS

Pursuant to Fed. R. Civ. P. 6(b), Jay J. Ralston ("Plaintiff") and defendants Countrywide Home Loans, Inc. ("CHL"), Mortgage Investors Group, Inc., and Mortgage Investors Group (collectively, "Defendants") hereby jointly stipulate and request the Court to extend the class certification briefing deadlines and hearing in this case in order to permit them to explore a potential resolution of this litigation in a mediation with the Honorable Edward A. Infante (Ret.) scheduled for August 2, 2011. In support of this Joint Stipulation, the parties state as follows:

1. This is a putative class action brought by Plaintiff against Defendants, asserting claims for fraudulent omissions and violation of the UCL.

2. By Minute Order dated February 11, 2011 ("Order") (Dkt. No. 214) (adopting Defendants' proposed case schedule in Dkt. No. 208), this Court set various deadlines for class certification briefing, including a May 20, 2011 deadline for Plaintiff's class certification motion, a June 17, 2011 deadline for Defendants' opposition, and a July 15, 2011 deadline for Plaintiff's reply submissions.

3. In the Order, this Court also set July 29, 2011 as the hearing date for Plaintiff's class certification motion.

4. Plaintiff filed his class certification motion on May 20, 2011, and thereafter filed a corrected class certification motion on May 25, 2011.

5. Plaintiff and CHL have agreed to explore a potential resolution of this matter with the assistance of a third-party mediator, Judge Infante of JAMS, and have scheduled a mediation for August 2, 2011. This mediation date was the first available to Judge Infante, the parties and the parties' counsel.

6. In light of the pending mediation, the parties jointly request that this Court (a) extend Defendants' deadline to file their class certification opposition submissions from June 17, 2011 to August 30, 2011; (b) extend Plaintiff's deadline to file his reply submissions from July 15, 2011 to September 30, 2011; and (c) reschedule the July 29, 2011 class certification hearing to October 14, 2011.

7. The parties respectfully submit that there is good cause for this joint request. First, the requested brief extension of deadlines will permit Plaintiff and CHL to devote their attention and resources to preparing for and participating in the mediation. *Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566 (9th Cir. 2004) (there is a strong judicial policy that favors class action settlements); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (same). And, second, the request extension will conserve the parties' and this Court's resources and avoid the potentially unnecessary expenditure of attorneys' fees and other litigation costs while parties explore the possibility of a settlement. *See* Fed. R. Civ. P. 1 (federal rules "should be construed and administered to secure the just, speed, and inexpensive determination of every action and proceeding").

8. No party will be prejudiced by the requested extensions.

9. No prior extension or adjustment of the deadlines set forth in the Order has been sought by the parties.

10. WHEREFORE, for all the foregoing reasons, the parties jointly request that this Court (a) extend Defendants' deadline to file their class certification opposition submissions from June 17, 2011 to August 30, 2011; (b) extend Plaintiff's deadline to file his reply submissions from July 15, 2011 to September 30, 2011; and (c) reschedule the July 29, 2011 class certification hearing to October 14, 2011.

Respectfully submitted

Dated: June 4, 2011

By: /s/ Jeffrey K. Berns
 DAVID M. ARBOGAST
darbogast@law111.com
 JEFFREY K. BERNs
jberns@law111.com
ARBOGAST & BERNs LLP
 6303 Owensmouth Ave., 10th Floor
 Woodland Hills, CA 91367-2263
 Tel. 818.961.2000
 Fax. 818.936.0232

LORI E. ANDRUS
lori@andrusanderson.com
JENNIE LEE ANDERSON
jennie@andrusanderson.com
ANDRUS ANDERSON LLP
155 Montgomery Street, Suite 900
San Francisco, CA 94104
Tel. 415.986.1400
Fax. 415.986.1474

GERSON HARRY SMOGER
jessicatexasinjurylaw@gmail.com
STEVEN MICHAEL BRONSON
steven.bronson@gmail.com
SMOGER & ASSOCIATES, P.C.
3175 Monterey Blvd.
Oakland, CA 94602
Tel.: 510-531-4529
Fax: 510-531-4377

MICHAEL BOWSE
mbowse@bwgfirm.com
BROWNE WOODS GEORGE LLP
2121 Avenue of the Stars, Suite 2400
Los Angeles, California 90067
Tel: 310.274.7100
Fax: 310.275.5697

LEE A. WEISS
lweiss@bwgfirm.com
BROWNE WOODS GEORGE LLP
626 RXR Plaza
Uniondale, NY 11556
Tel.: 516.522.2613
Fax: 516.977.0263

J. MARK MOORE
mark@spiromoss.com
SPIRO MOSS LLP
11377 W. Olympic Boulevard, 5th Floor
Los Angeles, CA 90064-1683
Tel. 310.235.2468
Fax. 310.235.2456

JONATHAN SHUB
jshub@seegerweiss.com
SEEGER WEISS LLP
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Tel: 215.564.2300
Fax: 215.851.5029

MARK R. CUKER
mcuker@wcblegal.com
WILLIAMS CUKER BEREZOFSKY
1515 Market Street, Suite 1300
Philadelphia, PA 19102
Tel: 215-557-0099
Fax: 215-557-0673

Attorneys for Plaintiff: *Jay J. Ralston*

Dated: June 4, 2011

/s/Brooks R. Brown
BROOKS R. BROWN
bbrown@goodwinprocter.com
STEVEN A. ELLIS
sellis@goodwinprocter.com
THOMAS M. HEFFERON (pro hac vice)
thefferon@goodwinprocter.com
ROBERT B. BADER
rbader@goodwinprocter.com
GOODWIN PROCTER LLP

Attorneys for Defendant:
Countrywide Home Loans, Inc.

Dated: June 4, 2011

By: /s/Roland P. Reynolds
ROLAND P. REYNOLDS
rreynolds@pdlawyers.com
RUSSELL G. GOMM
rgomm@pdlawyers.com
PALMER, LOMBARDI & DONOHUE LLP
888 West 6th Street, 12th Floor
Los Angeles, CA 90017
Tel. 213.688.0430
Fax. 213.688.0440

Attorneys for Defendants: *Mortgage Investors Group, Inc. and Mortgage Investors Group*

ORDER

Upon consideration of the parties' Stipulation and having good cause therefore, **IT IS HEREBY ORDERED** that (a) Defendants' deadline to file their opposition submissions is extended from June 17, 2011 to August 30, 2011; (b) Plaintiff's deadline to file his reply submissions is extended from July 15, 2011 to September 30, 2011; and (c) the class certification hearing is rescheduled from July 29, 2011 to October 14, 2011.

IT IS ORDERED.

Dated: June 6, 2011



HON. JEREMY FOGEL
United States District Judge